receiver previously appointed to seize and hold the property of an alleged bankrupt pending adjudication must restore such property to the person or corporation from whom it was taken, intact, and without any deductions for his services or disbursements. In voluntarily serving before the adjudication in bankruptcy, a receiver accepts this risk of loss if the proceedings be dismissed.

In this case the petitioners for a receiver were merely creditors, seeking security in property to which they had no other claim. True, when no question is made as to the legality and propriety of an appointment of a receiver, and he has closed up the business in pursuance of his appointment, his compensation should be paid from the funds in his hands. *Radford v. Folsom,* 55 Iowa 276. And when it becomes the duty of a court to take property under its charge, the property becomes chargeable with the necessary expense incurred in taking care of and saving it, including the allowance to the receiver for his services. *Ferguson v. Dent,* 46 Fed. 88. But a receiver irregularly and erroneously appointed cannot look for compensation to the funds placed in his hands, *French v. Gifford,* 31 Iowa 428, as that would be a taking of property without due process of law. So in the present case Referee Hotchkiss holds that to charge the alleged bankrupts with the expenses of seizing and administering their solvent estate against their will would be a greater injustice than to deprive the receiver of his return for voluntary services, though rendered in good faith.

BANKRUPTCY—PREFERENCES.—MCKENNY V. CHENEY, 11 AM. B. R. 54.—*Held,* Section 67f of the Bankruptcy Act of 1898, providing "that all levies, judgments, attachments or other liens, obtained against a person who is insolvent, at any time within four months prior to the filing of a petition in bankruptcy against him, shall be deemed void in case he is adjudged a bankrupt," is applicable to cases both of voluntary and involuntary bankruptcy.

The decisions upon this question are very fully catalogued in this case. Some courts are of the opinion that to construe section 67f as applying to cases of voluntary bankruptcy would be to eliminate from the statute subsection c, which in terms apply to voluntary bankrupts. *In re O'Connor,* 95 Fed. 943. But by the slight weight of authority, the words "at any time within four months prior to the filing of a petition in bankruptcy against him" are to be construed as applying to voluntary as well as involuntary cases, in as much as section 1a, cl. 1, declares that "'a person against whom a petition has been filed' shall include a person filing a voluntary petition." *In re Dobson,* 98 Fed. 86; *In re Benedict,* 75 N. Y. Supp. 165.

BILLS AND NOTES—BONA FIDE HOLDER.—MECHANICS' BANK V. CHARDAVOYNE, 55 ATL. 1080 (N. J.).—*Held,* that a party who receives a negotiable note in payment of a pre-existing debt is a bona fide holder for value. Dixon, Garrison, Fort and Green, J. J., *dissenting.*

A purchaser of fraudulently obtained goods in settlement of a pre-existing debt is not a bona fide purchaser for value. *Sleeper v. Davis,* 64 N. H. 59. And in some States this has been held to be so in the case of negotiable instruments. *Button v. Rathbone,* 118 N. Y. 666. *Roxborough v. Messick,* 6 Ohio St. 448. It is sufficient for his protection, however, if the purchaser

parts with anything of value, such as evidence of the debt. *Moyer v. Heidelbach,* 123 N. Y. 332. And the generally accepted rule is that the purchaser holds the note free from equities, although he gives up nothing for it. *American File Co. v. Garrett,* 110 U. S. 288; *Bridgeport City Bank v. Welch,* 29 Conn. 475. In the present case the note was delivered in New York and hence governed by the law of that State. The majority of the court seemed to mistake the fact that, on this point, the New York law is contrary to the general rule.

BILLS AND NOTES—FOREIGN JUDGMENTS—CONCLUSIVENESS—LIMITATIONS. —BRAND V. BRAND, 76 S. W. 868 (KY.).—In an action on a note in New York judgment was given for the defendant on the grounds that suit was barred by the statute of limitations. *Held,* that such a judgment affects only the remedy to be had in that State, and the plea of the New York judgment is not good in an action brought in another State, where a different statute of limitations prevails.

It is well established that where an injured party has a right to either of two remedies, the one he chooses is not barred because the other, if he had brought it, might have been. *Lamb v. Clark,* 5 Pick. 193; *Missouri Sav. Bank Co. v. Rice,* 84 Fed. 131. This is strong evidence that, in absence of stipulations to the contrary, statutes of limitations relate to the remedy only, and not to the cause of action. And it is very generally held that such statutes are a part of the *lex fori. Bauerman v. Blunt,* 147 U. S. 647; *M'Elmoyle v. Cohen,* 13 Pet. 312; *Story, Conflict of Laws* (8th ed.), sec. 576. Hence a judgment based upon such a statute is not conclusive in other jurisdictions. This rule is applicable to the statutes of foreign countries, as well as to those of the several States. *Bulger v. Roche,* 11 Pick. 36. The same doctrine is well established in England. *Dicey, Conflict of Laws,* 422. *Harris v. Quine,* (1869), L. R. 4 Q. B. 653, is on all fours with the decision under discussion.

CITIES—STREET SPRINKLING—PUBLIC PURPOSE—TAXATION.—MAYDWELL V. CITY OF LOUISVILLE, 76 S. W. 1091 (KY.).—*Held,* that the sprinkling of city streets is such a public purpose that an ordinance, levying a tax for the expense involved, is constitutional.

The statutes on street sprinkling, that have come before the courts, have been those providing for assessments on abutting property as for local improvements. These have been held to be constitutional on the ground that "the sprinkling, besides being of general public good, was of special private benefit." *Sears v. Boston,* 173 Mass. 71; *State v. Reis,* 38 Minn. 371; *Reinkin v. Furhring,* 130 Ind. 382. City ordinances, requiring trolley companies to sprinkle the roadbed between their tracks, have been declared constitutional, as providing for the public health. *State v. R. R. Co.,* 50 La. Ann. 1189; *Chester v. Traction Co.,* 5 Pa. Dist. 609. Several of the cases contain *dicta* on the point of principal case, for example,—"that street sprinkling is a public purpose is unquestioned." *State v. Reis, supra.* It would therefore seem that the ruling of this case is sound.

CONSTITUTIONAL LAW—DUE PROCESS OF LAW—RECEIPTS AS CONCLUSIVE EVIDENCE.—HARRIS V. STEARNS, 97 N. W. 361 (S. D.).—*Held,* that a legislative enactment providing that a tax receipt shall be conclusive evidence that